

**MINUTES
of the
SECOND MEETING IN 2008
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**June 26, 2008
Western New Mexico University
Silver City**

**June 27, 2008
Mimbres Valley Learning Center
Deming**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee for 2008 was called to order by Senator Mary Kay Papen, chair, at 10:12 a.m. in the Thomas B. McDonald Student Memorial Center at Western New Mexico University in Silver City.

Present

Sen. Mary Kay Papen, Chair
Rep. Daniel P. Silva, Vice Chair
Rep. Janice E. Arnold-Jones
Rep. Richard J. Berry
Rep. Dona G. Irwin
Rep. Jane E. Powdrell-Culbert
Rep. Henry Kiki Saavedra
Rep. Don L. Tripp
Sen. David Ulibarri

Advisory Members

Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Sen. Mary Jane M. Garcia (June 26)
Rep. Thomas A. Garcia
Sen. Richard C. Martinez
Sen. Leonard Lee Rawson (June 26)
Rep. Edward C. Sandoval

Absent

Rep. Elias Barela
Sen. Joseph J. Carraro
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Sen. Lidio G. Rainaldi
Sen. Nancy Rodriguez
Sen. H. Diane Snyder
Rep. Richard D. Vigil

Sen. Vernon D. Asbill
Rep. Jose A. Campos
Sen. Pete Campos
Rep. Ernest H. Chavez
Sen. Kent L. Cravens
Sen. Dianna J. Duran
Rep. Daniel R. Foley
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. Sheryl Williams Stapleton
Rep. James R.J. Strickler

Sen. James G. Taylor
Rep. Thomas C. Taylor
Rep. Luciano "Lucky" Varela

(Attendance dates are noted for those members not attending the entire meeting.)

Guest Legislators

Rep. Rodolpho "Rudy" S. Martinez
Sen. Howie C. Morales

Staff

Doris Faust, Legislative Council Service (LCS)
Ric Gaudet, LCS
Tom Pollard, LCS

Guests

The guest list is in the original meeting file.

Handouts

Handouts from the meeting are in the original meeting file.

Thursday, June 27

Welcome and Introductions

Senator Papen introduced NMFA and LCS staff to the audience, and members of the committee introduced themselves. Senator Papen then turned over the meeting to Senator Morales of Silver City, who chaired the meeting for the rest of the day.

Yolanda O'Connell, comptroller, Western New Mexico University, welcomed members of the committee to the university and provided a brief history of the university, which now has about 2,700 students, and offers two-year and four-year degrees, as well as master's degrees.

Overview of Local Capital Projects and Capital Needs

Silver City

Mayor James Marshall and City Manager Alex Brown presented Silver City's current capital projects and some upcoming ones that need funding. The city has received four loans from the NMFA in the past year to replace fire equipment, to acquire two fire trucks, to install an automated water monitoring system and to upgrade its sanitation system.

Silver City now has curbside recycling, which, although the program costs some money to operate, also saves the city money in trash-tipping fees and long-term landfill costs. Mr. Brown reported that recycling by residents has increased 11 percent in just one month.

Silver City is planning to replace its city hall and library in the next few years and wants to locate them in a campus-type setting. The cost for both projects is estimated at \$12 million. The city will retire some bonds soon, which will free up additional bonding capacity for part of the cost. Other projects in the works include city street repairs, which include significant drainage issues due to the city's hilly terrain. The city's cemetery is running out of room and will need a new location soon. Finally, the city's swimming pool, which underwent renovations recently, needs a small amount of money to finish the project.

Grant County

Grant County Manager Jon Paul Saari and County Commission Chair Henry Torres discussed with the committee capital projects for Grant County. The county has been working with the NMFA on a \$4 million bond to build a county detention center. The county may also take a loan with the NMFA in order to replace some of the oldest county vehicles, some of which have more than 300,000 miles logged.

The county is scheduled to issue bonds to construct the new Fort Bayard Medical Center, which will be lease-purchased by the state. Mr. Saari said that the Village of Santa Clara will get a large gross receipts tax (GRT) boost from construction of the center.

The major capital projects the county is pursuing include a new civic center, which has already received some legislative funding, paving and chip sealing county roads, more improvements to the Bataan Memorial Park and long-term planning for water improvements on the Rio San Francisco.

Representative Crook asked whether operational costs for the new civic center have been budgeted. Mr. Saari said that has been planned for.

Representative Ezzell asked if the U.S. Forest Service and other government agencies are cooperating with the county to prevent erosion problems on the Rio San Francisco. Mr. Torres said that, currently, the local soil and water conservation district is doing extensive conservation work and is also working with the U.S. Forest Service on a thinning project, both of which will benefit the health of the river.

Senator Garcia asked how much the civic center will cost. Mr. Saari said that the center, with 28,000 square feet of meeting rooms and office space, will cost \$4 million. The 47-acre campus on state land is being master planned for future county buildings.

Responding to a question from Representative Powdrell-Culbert, Mr. Saari said the current detention facility can house 40 inmates, but the county currently needs space for an average of 75 inmates. The county wants to build a 100-bed facility and is beginning alternative

sentences for drug offenders and other minor offenders. The county has secured \$10 million of its own funds for the facility, and will need about \$2 million to \$3 million more.

Bayard

Representative Martinez, who is also mayor of the City of Bayard, presented to the committee the city's capital outlay requests. Those include:

- \$560,000 for street and drainage improvements;
- \$500,000 for library expansion and renovation;
- \$400,000 for community center expansion;
- \$270,000 for animal shelter construction; and
- \$550,000 for water system distribution improvements.

Mayor Martinez mentioned that Bayard recently upgraded its little league parks and will soon be providing emergency water service to the Hanover water system. The Bayard library, which dates back to 1912, is in need of renovation and will add a new adult basic education center. Finally, Mayor Martinez said that Bayard needs a cemetery. It is currently the only municipality in Grant County without a cemetery.

Hurley

Ray Baca, mayor of the Town of Hurley, detailed for the committee Hurley's infrastructure needs, including:

- \$3,500,000 for a new water system;
- \$4,000,000 for street improvements;
- \$1,550,000 for city hall and public safety building improvements;
- \$160,000 for maintenance equipment and vehicles; and
- \$150,000 for a new wastewater system.

Mayor Baca said that Hurley has been dependent on the Chino Mine since 1910 for its water and wastewater systems, but soon the company will require the town to provide its own services. Hurley needs to acquire 350 acre-feet of water rights at \$10,000 per acre-foot and will need to spend about \$1 million for a new well and piping. The Chino Mine will be unable to accept raw sewage into its tailings pond after 2010. Hurley has secured most of the money needed to pump sewage to the Bayard-Santa Clara wastewater system, but needs \$150,000 more in order to avoid rate increases to its users.

Representative Ezzell asked from where Hurley could purchase water rights. Mayor Baca said the mining company can sell the rights to the town. In addition, Santa Clara and Silver City have water rights in the area that could be purchased. Representative Ezzell suggested leasing water rights from the mine instead of purchasing them.

Local Hospital Funding Through the NMFA and the Cigarette Tax

Brian Bentley, chief executive officer, Gila Regional Medical Center, described for the committee the process that the center used to obtain funding for its new cancer center. In 2006, the legislature enacted a law that allowed a distribution of cigarette tax revenues to benefit rural cancer treatment centers. The law was amended in 2007 to allow the NMFA to issue revenue bonds of \$3 million. Bonds were issued in August 2007, and the center is now treating patients. The center also includes a radiation treatment area, which allows patients to be treated in Silver City without having to travel to Las Cruces.

Mark Valenzuela and Adam Hagan of the NMFA described the history of cigarette tax revenues and financing for various health-related uses. There has been a general downward trend of cigarette tax receipts since 1994, except for the huge jump in receipts in 2003 after the tax was increased. Taking that downward trend into account and setting aside part of the receipts in a credit enhancement account, the NMFA has been able to bond against the cigarette tax revenues and still receive a very high bond rating from bonding agencies. Without the credit enhancement account, the NMFA would have to pay a much higher interest rate because cigarette tax revenue bonds have traditionally been viewed as high-risk bonds.

Mr. Valenzuela said that the NMFA has never had to use the credit enhancement account to pay debt service on its bonds. However, if there is a dramatic drop in cigarette tax revenues, the legislature will have to create a different financing mechanism for the existing bonds.

The other hospital set to receive funding for cancer treatment is Nor-Lea General Hospital in Lovington. After that center is funded, said Mr. Valenzuela, there will be no additional bonding ability for several years. Mike Miller, representing the Nor-Lea General Hospital, said that Lea County has the highest incidence of lung cancer in the state. Funding the cancer treatment center will allow patients to receive treatment close to home.

Representative Berry said he is happy the state is funding regional cancer treatment centers. He asked what else the cigarette tax funds. Mr. Valenzuela said that 85 percent of cigarette tax revenues fund health-related programs.

Representative Silva asked about the percentage of cigarettes sold in New Mexico that are not taxed. Mr. Valenzuela said that although that information has been difficult to track in the past, data from 2007 indicate that 35 percent of cigarettes were sold on Native American land and were not taxed by the state.

Tours

Murray Hotel

After lunch, the committee toured the downtown Silver City landmark Murray Hotel, which is being partially financed through the Statewide Economic Development Revolving Fund and the NMFA. The NMFA has a construction loan participation of \$1.4 million, or 49 percent, of the amount financed. When finished, the hotel expects to hire more than 40 people, with beginning average salaries of \$26,000. Members of the committee expressed interest in holding a future meeting in the hotel after its reopening.

Fort Bayard Medical Center

The committee toured the Fort Bayard Medical Center, which currently houses psychiatric long-term patients and veterans. Katrina Hotrum, deputy secretary of health, described the history of the facility, from housing the Buffalo Soldiers in 1866, to becoming a Veterans Administration hospital, to becoming a long-term care facility run by the state. Ms. Hotrum discussed the recent termination of the contract to operate the hospital by GEO Care, effective July 1, 2008, and the selection of Pinon Services to continue operations.

The need for a new facility at Fort Bayard is critical, said Ms. Hotrum. The current building was never designed to be a nursing facility, and the facility treats some of the state's most difficult patients. The legislature authorized the lease-purchase of a new facility, which will be constructed and financed by Grant County and lease-purchased back to the state. Originally, GEO Care was supposed to finance and construct the facility, but there were many problems associated with that deal, including the fact that GEO Care had very little experience in constructing or operating nursing facilities.

Senator Papen asked why the Department of Health used county bonds to finance the new facility, rather than the potentially cheaper NMFA-financed bonds. Ms. Hotrum said that was a decision made by GEO Care when it was still in charge of the project. Senator Papen asked why GEO Care was hired to operate the facility when it had no previous experience in long-term nursing. Ms. Hotrum said that GEO Care believed it could manage the facility, but was unable to do so. The facility was decertified by the federal Department of Justice recently, she said.

Representative Silva asked at what interest rate will the new facility be financed. Ms. Hotrum said she did not know the details, but that the governor was currently in New York trying to secure a better rate for the state's bond issues. She said the state was trying to "bundle" the Fort Bayard bond issuance with lower-rate general obligation bond issues.

Representative Silva asked about the operational costs and financing payments of the new facility. Ms. Hotrum said that the facility should be cheaper to operate than the current hospital. She also said that GEO Care provided inaccurate estimates of lease payments.

Representative Silva asked about the future plans for the entire Fort Bayard property, which contains 438 acres and has 26 springs. Representative Martinez, who also serves as

facilities manager for Fort Bayard Medical Center, said that there has been discussion about transforming the place into a state park. He mentioned that there is also a national veterans' cemetery on the property.

Representative Silva asked whether the NMFA is involved in any way with the financing of Fort Bayard. Mr. Valenzuela said that there will be private underwriters for the bonds. He said the state will be paying for the bonds, and Grant County will be the flow-through agent for them. He said there is still a question of whether the state is getting the best deal possible with this method of financing.

The committee recessed for the day and drove to Deming for the subsequent day's meeting.

Friday, June 27

Committee Business

The committee was reconvened at 9:10 a.m. on Friday, June 27, 2008, in the Mimbres Valley Learning Center in Deming by Senator Papen. After introductions, she handed the reins to Representative Irwin, who chaired the meeting for the rest of the day.

Ms. Faust announced to the committee that the Legislative Council approved member per diem for attendance at the New Mexico First transportation town hall meeting in August.

The minutes from the May 28, 2008 meeting of the NMFA Oversight Committee were approved without changes.

Overview of Local Capital Projects and Capital Needs

Andres Silva, mayor of Deming, described for the committee ongoing and future capital outlay projects for the city. Three projects that need additional funding are:

- \$350,000 for the Deming fire department substation;
- \$350,000 for youth recreation athletic fields; and
- \$500,000 for the joint Luna County/Deming law enforcement complex.

Mayor Silva also described several projects that the NMFA is providing loans or grants for, including water distribution lines, water system improvement planning, the Solana water and sewer extension and a water storage project. Finally, Deming is in the planning process to build a new main fire station, financed by a possible GRT increase.

Richard McInturff, Deming city administrator, mentioned a requirement that the Public School Facilities Authority has that a new school needs to have 20 acres of land. This requirement has meant that the most recent four schools in the Deming Public School District

have all been built outside city limits, resulting in higher construction costs and essentially requiring that all students be bused to the new schools. Mayor Silva suggested that the legislature could give incentives for school districts to locate new schools within city limits.

Representative Ezzell said the 20-acre requirement for new schools is too much of a burden for small school districts to comply with.

Representative Tripp asked about Deming's growth rate. Mr. McInturff said that the city has seen a growth rate of four percent per year over the last several years, especially with the increase in border personnel. He said the city does not have enough housing to meet demand and is doing everything it can to encourage new development. The city could receive much more in economic benefits if it is able to provide housing for all those people who currently commute from Las Cruces or El Paso every day.

Representative Arnold-Jones asked about Deming's innovative approach with the Department of Environment to get reimbursed for its sewer extension on a per-foot basis, rather than a cost-reimbursement basis. Mr. McInturff said that approach reduces tremendously the amount of bureaucratic paperwork required to get reimbursed. Representative Berry commended Deming for using unit pricing and said he is surprised that it is not more commonly used.

Luna County

Luna County Manager Scott Vinson presented to the committee the various projects the county is working on, including:

- a judicial complex, funded by a GRT bond and legislative appropriations;
- an entertainment complex, funded by a capital outlay GRT bond;
- a child care facility, funded by a community development block grant;
- a youth recreation center, funded by the legislature;
- the Columbus cattle pens, funded by the legislature;
- a city/county law enforcement complex, funded locally and by the legislature;
- a Columbus substation, funded locally;
- adult softball fields, funded locally; and
- new jail cells, funded locally.

The county is also proposing an expansion of the rural health clinic and the recreation center and is currently identifying revenue sources for those projects.

Mr. Vinson discussed the close collaboration among Luna County, cities and the school district. As an example, when the new school outside of Columbus was being constructed, the school district realized that it did not have enough money to pave the road or extend utility lines to the site. So, the county decided to pave the road and purchased all of the sewer, water and gas supplies. The Village of Columbus then installed the utilities, using its equipment and labor.

Mr. Vinson described the entertainment complex that Luna County and the City of Deming are building, which will be leased to a private company to operate. This project is an attempt to keep border patrol families in Deming, thus bringing more economic development and tax revenue to the area.

The Columbus cattle pens project will allow livestock to cross the international border, which will result in an estimated \$400,000 annual profit to the county. Representative Ezzell said that cattle entering the U.S. need to be inspected for hoof and mouth disease. Mr. Vinson said that the cattle crossing will be staffed full-time by the U.S. Department of Agriculture.

Luna County is constructing new jail cells to house more federal prisoners and is using recycled shipping containers as the building material. The cost of using shipping containers is about \$17,000 per bed, compared to \$89,000 using traditional methods. Mr. Vinson said the county earns about \$1 million each year housing those prisoners.

Representative Arnold-Jones asked whether the county has difficulty working with the federal Homeland Security Department, and she asked why the department is using its eminent domain powers to build a new detention facility, rather than using existing facilities. Mr. Vinson said that he heard about the department's decision to condemn private property after it had already been decided. He said the county lodged a protest with the department.

Columbus

Paul Nimick, grant administrator for the Village of Columbus, presented to the committee projects the village is working on, including:

- increasing its water storage capacity;
- completing water delivery improvements;
- storm and surface water control;
- street improvements; and
- port-of-entry industrial park construction.

The village has an immediate need of \$100,000 to complete funding for a left-turn lane into the new school. Mr. Nimick said that the village is in the process of annexing the school property.

Mr. Nimick said that Columbus also needs assistance to fund its police, fire and EMT departments. He said that 90 percent of fire and police activities are border-related.

Representative Ezzell asked what the major crime issues are along the border. Mr. Nimick said he believes that marijuana is the major drug being smuggled across the border. He said that there has been a recent decrease in drug trafficking, but an increase in violent crime, mostly due to the drug wars in Mexico.

Review of Border Authority Activities and Proposed Legislation

Jaime Campos, executive director, Border Authority, gave the committee a review of the authority's activities in Santa Teresa and Columbus/Palomas. Some of the projects the authority is facilitating include:

- the Anapra port of entry, which has already received \$12 million in state funding;
- the commercial safety inspection facility in Santa Teresa, which still needs \$3 million more in funding;
- the Border Authority office building, which has been funded by the state;
- the Santa Teresa port-of-entry lighting, which was completed in April;
- the Union Pacific Railroad relocation and expansion, which will cost \$150 million;
- the Strauss Road intermodal access, which has been funded by the state and federal governments;
- the Columbus port-of-entry expansion, which still needs \$50 million in federal funding;
- the Columbus port-of-entry commercial bypass, which has been funded by the state and federal governments;
- the Columbus import/export stockyards, which have been funded by the state; and
- the Columbus/Palomas joint border flood study, which has been funded by the state.

Mr. Campos said that the railroad port of entry will be located three miles west of Santa Teresa and will be a 24-hour crossing.

Representative Ezzell asked about safety and inspection requirements for trucks coming from Mexico. Mr. Campos said that all trucks coming from Mexico need to comply with U.S. trucking laws. Mr. Campos said that any truck driver from Mexico who wishes to travel past the 10-mile border zone needs to meet additional licensing and insurance requirements.

Mr. Campos said that Ciudad Juarez is having a very difficult time right now, with drug-related murders, kidnappings and bank robberies rampant.

Mr. Campos described two proposed changes to New Mexico statutes that the Border Authority is seeking. The first would allow the authority to use money it receives from leases for its own programs. It leases property it owns to a private parking company for use as an export parking lot. Mr. Campos said that current statutes do not allow the authority to operate a business, which this project technically would be considered.

The other change in statute that the authority is seeking is an exemption from the jurisdiction of the Property Control Division (PCD) of the General Services Department. The authority wants to build its headquarters and not have the building be subject to the control of the PCD.

Representative Silva asked how many commercial trucks pass through the Santa Teresa port of entry daily. Mr. Campos said that the average daily truck traffic is 159 and is increasing every month. He also said that tourism from Chihuahua is increasing through Santa Teresa.

Spaceport Authority Update

Steve Landeene, executive director, Spaceport Authority, gave a presentation to the committee on the status of Spaceport America. The spaceport is still in the planning and design phase, with construction expected to begin in early 2009. Mr. Landeene described the spaceport's vision, which includes a multifaceted approach to success, including vertical and horizontal space launch facilities, training, research and development, entertainment, tourism, education and fundraising.

The current status of the development of the spaceport includes:

- the design for the facility is 95 percent complete;
- the environmental impact statement is underway and is expected to be complete by the end of the year;
- the spaceport district was created by the affirmative vote of the residents of Dona Ana and Sierra counties, with Otero County slated to vote in November 2008;
- the lease with the anchor tenant, Virgin Galactic, is closer to being signed;

- the temporary road and bridge work for construction purposes will begin in October 2008;

- an agreement with Sierra Rural Electric Cooperative is nearing completion, including a memorandum of understanding regarding renewable energy; and

- the welcome and visitor centers in Hatch and Sierra County are being planned.

Mr. Landeene discussed three changes in legislation that the Spaceport Authority is requesting:

- providing an "informed consent" liability limitation for companies that use the spaceport;

- changing the official name of the spaceport from the "Southwest Regional Spaceport" to "Spaceport America"; and

- clarifying that the spaceport does not have zoning or eminent domain powers.

The committee discussed whether the Spaceport Authority will comply with all of the statutory deadlines by the end of the year. Mr. Landeene said that the goal is to meet the benchmarks by the end of the year, but if they are not quite met, the enacting legislation would have to be modified. He said that he hopes to have a signed lease agreement with Virgin Galactic before construction begins. A draft lease has been created, but what remains to be agreed upon are the user fees. He said that Virgin Galactic has already committed significant investment toward moving its headquarters to the spaceport.

Representative Arnold-Jones asked for details of the planned educational activities and whether a revenue source has been identified. Mr. Landeene said that the authority is trying to get funding for educational programs and is also in discussion with the U.S. Air Force.

Representative Powdrell-Culbert asked if the authority is working with officials of Fort Bliss. Mr. Landeene said that officials at Holloman Air Force Base, White Sands Missile Range and Fort Bliss have all expressed interest in collaborating with the spaceport.

Representative Ezzell asked for details of the economic validation model in the handout. Mr. Landeene said he would provide copies of the spreadsheet to the committee members. He said that the preliminary analysis shows a net present value for the state of \$57 million. He also said that the project remains within the budgeted \$225 million that the legislature mandated.

Representative Silva asked about development plans around the spaceport. Mr. Landeene said that Virgin Galactic wishes to develop a resort complex for its customers. He said that the spaceport site will not be developed for hotels or housing, however.

Representative Berry said that although it is commendable that the spaceport is being built using energy-efficiency standards, there is no good reason why the state should spend the budgeted \$2 million to get the facility LEED-certified.

Representative Ezzell asked what liability the state will have once the spaceport is operational. Mr. Landeene said that there should be none, but that he will review that claim with the authority's legal counsel.

Senator Papen asked Mr. Landeene to work with staff in developing legislation the authority wishes to have enacted and to get the committee a list of additional capital outlay needs as soon as possible. Representative Silva suggested that the authority present drafted legislation to the committee for review at its November meeting.

There being no further business, the committee adjourned at 1:53 p.m.